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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/683,928	10/10/2003	Robert R. Hunter	375283-00103	2227

7590 07/26/2005

Robert Hunter
TrendPoint Systems, Inc.
111 Deerwood Road
Suite 200
San Ramon, CA 94583

EXAMINER

CHARIOUI, MOHAMED

ART UNIT	PAPER NUMBER
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2857

DATE MAILED: 07/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/683,928

Applicant(s)

HUNTER, ROBERT R.

Examiner

Mohamed Charioui

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 May 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-39 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 10 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule: 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Double Patenting

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Claims 1 and 8 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claim 11 of prior U.S. Patent No. 6,622,097. This is a double patenting rejection.

Claims 14 and 38 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claim 13 of prior U.S. Patent No. 6,622,097. This is a double patenting rejection.

Claims 15 and 39 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claim 17 of prior U.S. Patent No. 6,622,097. This is a double patenting rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. **Claims 1, 3-7, 8-13, 16-18, 20, 22, 24-26, 28, 30 and 32** are rejected under 35 U.S.C. 103(a) as being unpatentable over Halpern (U.S. RE. 35,793) in view of Lestician (U.S. 5,880,677).

As per claims 1, 3-13, 16-18, 20, 22, 24-26, 28 and 30, Halpern teaches reading power consumption data using an automatic reader (see col. 2, lines 8-12 and col. 2, line 54 to col. 3, line 15), collecting that data from the reader into a computer memory device (see col. 2, lines 12-17); creating a forecast of electric power consumption for a predetermined period of time using a computer system, wherein the computer system is used in creation of a forecast based on usage for a portion of the predetermined period of time (see col. 2, lines 23-45).

Halpern does not explicitly teach controlling an amount of power consumption by controlling a device that consumes power based on the forecast.

Lestician teaches this feature (see col. 5, line 42 to col. 6, line 40). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate Lestician's teaching into Halpern's invention because it would monitor the power consumption of the devices and control its operations. Therefore, power would be consumed economically and efficiently.

As per claims 23 and 32, Halpern further teaches that the predetermined period of time is two or more instantaneous time periods (see col. 3, lines 40-50 and col. 12, lines 12-25).

2. **Claims 2, 14, 31 and 38** are rejected under 35 U.S.C. 103(a) as being unpatentable over Halpern in view of Lestician and Young (U.S. 5,721,659).

Halpern in view of Lestician teach the system as stated above except that the controlling is done manually by hand.

Young teaches this feature (see col. 2, lines 35-51). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate Young's teaching into Halpern in view of Lestician's teaching because it would provide controlling the power consumption manually by hand. Therefore, the user would be able to switch-off power on an electrical appliance to optimize the overall power consumption.

3. **Claims 15 and 39** are rejected under 35 U.S.C. 103(a) as being unpatentable over Halpern in view of Lestician and Young and further in view of Bonar (U.S. 5,152,075).

Halpern in view of Lestician and Young teach the system as stated above except that the predetermined amount represents a target and when usage falls bellow the target for the predetermined time period the user becomes entitled to a rebate.

Bonar teaches this feature (see col. 1, lines 9-23). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate Bonar's teaching into Halpern in view of Lestician Young's teaching because the user would be rewarded a rebate in the electric usage bill when the electric power consumption falls below a certain consumption limit. Therefore, by monitoring the power consumption, the user would save money and prevent energy waste.

4. **Claims 33-37** are rejected under 35 U.S.C. 103(a) as being unpatentable over Halpern in view of Lestician and Morales (U.S. 6,215,404).

As per claims 33, 35 and 37, Halpern in view of Lestician teach the system as stated above except that the computer system controls a security system.

Morales teaches this feature (see col. 1, line 60 to col. 2, line 11). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate Morales's teaching into Halpern in view of Lestician's teaching because home security device would be monitored and controlled. Therefore, the operator would be notified when abnormal situations are occurring and immediate actions would be taken to prevent serious problems.

As per claims 34 and 36, Halpern in view of Lestician teach the system as stated above except that the computer system controls a fire alarm system.

Morales teaches this feature (see col. 2, lines 12-63). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate Morales's teaching into Halpern in view of Lestician's teaching because the fire alarm would monitored and controlled. Therefore, Therefore, the operator would be notified when abnormal situations are occurring and immediate actions would be taken to prevent serious problems.

5. **Claims 19, 21, 27 and 29** are rejected under 35 U.S.C. 103(a) as being unpatentable over Halpern in view of Lestician and Roper (U.S. 4,198,621).

Halpern in view of Lestician teach the system as stated above except that the data transferred from the reader to the computer memory device via wireless communication.

Roper teaches this feature (see col. 1, lines 15-26). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate Roper's teaching into Halpern in view of Lestician's teaching because wireless communication provided from the reader to the computer memory device. Therefore, complicated cable wiring would be avoided and cable cost would be reduced.

Prior art

6. The prior art made record and not relied upon is considered pertinent to applicant's disclosure:

Seem ['811] discloses method of intelligent data analysis to detect abnormal use of utilities in buildings.

Natalini et al. ['269] disclose system for monitoring and servicing appliances.

Response to Arguments

7. Applicant's arguments with respect to claims 1-13 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Contact information

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mohamed Charioui whose telephone number is (571) 272-2213. The examiner can normally be reached Monday through Friday, from 9 am to 6 pm.

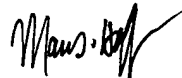
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc S Hoff can be reached on (571) 272-2216. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mohamed Charioui

7/18/05


MARC S. HOFF
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800